APPENDIX

U. S. DISTRICT COURT
DISTRICT OF COLUMBIA

No. 1237-71

VESTAL, *et al.*

v.

INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA, *et al.*

June 29, 1971

LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT

—Rules for amendment of international's constitution —Violation of Act § 5.15

Although it is arguable whether present rules for amendment of international union's constitution, which do not provide for submission of amendments to rank-and-file members, violate language of LMRDA, it is less arguable that they violate spirit of Act in that membership is not afforded full opportunity to participate in affairs of international. Therefore, international's convention is ordered to institute procedures permitting members to petition for changes and providing for prompt notification of entire membership and referendum.

Action for injunction by seven members of international union against international and officer of international. Ruling in accordance with opinion.

Full Text of Oral Opinion

GREEN, District Judge:—This is a suit seeking an injunction, brought by Don Vestal, President of Local Union 327, of Teamsters, Chauffeurs, Helpers, and Taxicab Drivers, in Nashville, Tennessee, candidate for President of the International Brotherhood, and by six other members of the International.

The defendants are the International Brotherhood of Teamsters, etc., and Frank E. Fitzsimmons, individually, and as General Vice President of International.

[ALLEGATIONS MADE]

Numerous allegations are made by plaintiffs dealing with Defendant Fitzsimmons, then General Vice President's alleged usurpation of authority and power of the General President.

Since the filing of this action General President Hoffa resigned and Fitzsimmons acceded to the General Presidency. Thereafter, he ratified his previous acts while General Vice President.

For the foregoing reasons much of the plaintiffs' complaint is now moot.

Plaintiffs question the constitutionality of Article III, Section 2, with regard to the basis of representation of the Locals by delegates and appointment of Credentials Committee, etc.

This Court finds that these questions are questions of internal organization of the Union and are not so clearly wrong as to warrant intervention by this Court.

Plaintiffs further question the validity of the present rules for amendment of the Constitution. Present rules

provide for submission to a Constitution Committee which may or may not take action thereon. If it does act, a simple majority of the delegates present may adopt this change which becomes effective immediately.

There is no provision for submission to the rank and file of the members of the Union.

Labor unions have become major forces in modern society. As such they should zealously guard and preserve the institutions of that society, one of which is the democratic process.

It may be arguable whether the provisions of the Constitution violate the *language* of the Landrum-Griffin Act.

It is less arguable that they violate the *spirit* of that legislation.

In this connection it is clear to the Court that the rank and file membership is not afforded full opportunity to participate in the affairs of its International Union.

[COURT'S DECISION]

For the reasons foregoing, the Court:

1. Denies the plaintiffs' request for a preliminary injunction against the holding of the Convention.

2. Orders the Convention to take such action with regard to procedures for amending the Constitution as would permit a predetermined number of responsible members to petition for changes in the Constitution. Receipt of such petition should set in motion a process for notification of the entire membership and a referendum had thereon concerning its adoption or rejection.

Action on such petition should be prompt and not be postponed until the next Convention, which may not take place for several years.

The court so orders without attorneys' fees or costs.

MR. BRIDGES: Your Honor, the plaintiffs respectfully request permission for an appeal.

THE COURT: Very well.

MR. BRIDGES: Thank you very much.

MR. BERGAN: If Your Honor please, before counsel has left—

THE COURT: Yes.

MR. BERGAN: With respect to the portion of your order directing certain procedures with respect to constitutional amendments, we have not yet decided whether to take this matter to the Court of Appeals, but in the event we do, I think it is required that we ask this Court to stay the effectiveness of that order pending appeal.

THE COURT: The Court will not stay that order.

MR. BERGAN: Finally, Ma'am, the complaint was served, if my recollection serves me correctly, on the 21st of June.

May we have an additional fifteen days to respond to the allegations of the complaint, both defendants?

THE COURT: Well, I suppose that it is moot insofar as the injunction over having the Convention is concerned.

MR. BERGAN: I suspect that it is, and actually, with respect to the Court's ruling on the Constitutional amendments, there is no such allegation in the complaint.

THE COURT: Oh, yes, there is.

MR. BERGAN: There is?

THE COURT: Yes, indeed.

MR. BERGAN: Sorry.

Well, may we have an additional fifteen days to respond to the complaint?

THE COURT: Certainly.

U. S. DISTRICT COURT
DISTRICT OF COLUMBIA

Nos. 71-1520 and 71-1634

VESTAL, *et al.*

v.

INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA, *et al.*

VESTAL, *et al.*

v.

INTERNATIONAL BROTHERHOOD OF TEAMSTERS, *et al.*

November 1, 1972

LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT

—Procedure for amending of union constitution § 5.15

Federal district court erred in ordering international union to adopt petition and referendum procedure for amending international constitution between conventions, there being no basis in Title IV of LMRDA or elsewhere for such order.

Appeals from the U.S. District Court for the District of Columbia (77 LRRM 2997). Appeal in No. 71-1520 dismissed as moot, and judgment appealed from in No. 71-1634 reversed.

See also 77 LRRM 2998.

Stanley Sidicane, Nashville, Tenn., for appellants in No. 71-1520 and appellees in No. 71-1634.

David Previant (Goldberg, Previant & Uelmen), Milwaukee, Wis., and Raymond W. Bergan (Williams, Connolly & Califano), Washington, D.C., for appellants in No. 71-1634 and appellees in No. 71-1520.

Before DANAHER, Senior Circuit Judge, and McGOWAN and ROBB, Circuit Judges.

Full Text of Judgment

PER CURIAM:—These causes came on for consideration on the records on appeal from the United States District Court for the District of Columbia and briefs were filed herein by the parties. On consideration of the foregoing, it is

ORDERED and ADJUDGED by the Court that the appeal in No. 71-1520 is hereby dismissed as moot and the judgment of the District Court appealed from in No. 71-1634 is hereby reversed for the reasons set forth in the attached memorandum.

Full Text of Opinion

PER CURIAM:—In No. 71-1520, the relief sought was essentially to enjoin the holding in 1971 of the quinquennial convention of the International Brotherhood of Teamsters. A preliminary injunction to this effect was denied by the District Court, and summary reversal was denied by this court. The convention was in fact held, and the

issues raised by this appeal no longer are of practical significance, rendering the appeal, in our judgment, moot.

In No. 71-1634, we are of the opinion that the injunctive order of the District Court appealed from should be reversed. In that order the District Court directed the Union to adopt a petition and referendum procedure for amending the union constitution between conventions. This order, which issued only thirteen days before the 1971 convention was to be held, was complied with by appellants at that convention, but only in deference to the District Court's order and upon the representations of counsel to the convention members that the matter would be appealed. We find no basis in the Labor Management Reporting and Disclosure Act, 29 U.S.C. §§ 401 et seq., or elsewhere, for the District Court's action.